

Milwaukee County Clerk of Circuit Courts
Civil & Family Courts Division *(County Courthouse)*

This division processes cases filed for the civil and family courts in Milwaukee County. Cases include matters regarding small claims (cases for amounts less than \$5000 and evictions), large claims, garnishments, restraining orders, divorce, paternity, state tax liens, writs, satisfactions and judgments.

Court records filed in these courts are open to the public with some exceptions.

LOCATION: Milwaukee County Courthouse
Room G-9, 901 N. 9th Street
Milwaukee, WI 53233
Phone: 414-278-4120 Fax: 414-223-1256

COMMON QUESTIONS

1. How do I get a copy of my judgment of divorce or paternity order?

These are available M-F 8am-4pm in the Record Center, Room G-9 of the courthouse. If you wish to order a copy by mail, please submit a written request including your name and case number to the Clerk of Circuit Court, Civil Division, 901 N. 9th Street, Milwaukee, WI 53233. You must include a check or money order for \$10 payable to the Clerk of Circuit Court. If you need a certified copy, add \$5. Please allow two weeks for processing.

If you do not know your case number, you can use the Internet at <http://wicourts.gov>, come to the Record Center, or submit a written request listing the names of both parties involved in the case and the year the case was filed. You should add \$5 if you want us to determine your case number.

2. What can I do about a judgment listed on my credit report?

A good place to start is the Record Center in Room G-9 of the Courthouse. You can use the public access computers or view the actual records involved. You can get useful information from the file and make copies of any documents that will help you clear your credit.

3. Where do I get forms to file a lawsuit?

Small Claims forms are available from the Clerk of Circuit Court office in Room 104 of the Courthouse or in this website. Divorce/Legal Separation forms and Modification packets for Family and Paternity matters are available from the Legal Resource Center located in Room 307-A of the Courthouse. Other forms are available at legal stationery stores.

4. Can I represent myself?

Yes, but people involved in any type of legal proceedings are encouraged to seek legal assistance.

5. How do I find a lawyer?

You can use the yellow pages or other similar publications. Newspapers and magazines publish advertisements for lawyers. There is a statewide Lawyer Referral and Information Service. The phone number is 800-362-9082. The Lawyer Referral phone line is 414-272-6768,

If you have limited income, you can contact Legal Action of Wisconsin at 414-278-7722, Legal Aid at 414-765-0600 or Centro Legal at 414-384-7900.

6. Can court staff help me?

Yes, within guidelines established by the Supreme Court:

COURT STAFF SHALL do all of the following:

(a) Provide public information contained in any of the following:

1. Dockets or calendars.
2. Case files.
3. Indexes.
4. Existing reports.

(b) Provide a copy of, or recite, any of the following:

1. Common, routinely employed state and local court rules.
2. Common, routinely employed court procedures.
3. Common, routinely employed applicable fees and costs.

(c) Advise an individual where to find statutes and rules without advising whether a particular statute or rule is applicable.

(d) Identify and provide applicable forms and written instructions without providing advice or recommendations as to any specific course of action.

(e) Answer questions about how to complete forms, such as where to write in particular types of information, but not questions about how the individual should phrase his or her responses on the forms.

(f) Define terms commonly used in court processes.

- (g) Provide phone numbers for lawyer referral services, local attorney rosters, or other assistance services, such as Internet resources, known to the court staff.
- (h) Provide appropriate aids and services for individuals with disabilities to the extent required by the Americans With Disabilities Act of 1990, 42 U.S.C. 12101 et seq.

COURT STAFF MAY NOT do any of the following:

- (a) Provide legal advice or recommend a specific course of action for an individual.
- (b) Apply the law to the facts of a given case, or give directions regarding how an individual should respond or behave in any aspect of the legal process.
- (c) Recommend whether to file a petition or other pleading.
- (d) Recommend phrasing for or specific content of pleadings.
- (e) Fill in a form, unless required by sub. 4(h).
- (f) Recommend specific people against whom to file petitions or other pleadings.
- (g) Recommend specific types of claims or arguments to assert in pleadings or at trial.
- (h) Recommend what types or amount of damages to seek or the specific individuals from whom to seek damages.
- (i) Recommend specific questions to ask witnesses or litigants.
- (j) Recommend specific techniques for presenting evidence in pleadings or at trial.
- (k) Recommend which objections to raise regarding an opponent's pleadings or motions at trial or when and how to raise them.
- (l) Recommend when or whether an individual should request or oppose an adjournment.
- (m) Recommend when or whether an individual should settle a dispute.
- (n) Recommend whether an individual should appeal a judge's decision.

- (o) Interpret the meaning or implications of statutes or appellate court decisions as they might apply to an individual case.
- (p) Perform legal research.
- (q) Predict the outcome of a particular case, strategy, or action.

7. What other help is available?

There are self-help clinics that provide assistance with court procedures and paperwork. Lawyers and other legal professionals volunteer their time. The clinics are located in Room G-9 of the Milwaukee County Courthouse. The Family Law Clinic operates every Monday through Wednesday from 11:30 a.m. to 1:00 p.m. and every Friday from 8:00 a.m. to 9:30 a.m. The Small Claims Self-Help Clinic operates every Thursday from 11:30 a.m. to 1:00 p.m.

GLOSSARY OF SOME COMMON TERMS

Summons: The form used to notify a defendant of a lawsuit.

Complaint: The statement describing why the defendant is being sued.

Answer: A statement setting forth the basis of a defense.

Counterclaim: A claim by the defendant in opposition to the claim of the plaintiff.

Plaintiff: The person filing the lawsuit.

Defendant: The person(s) being sued.

Judgement Creditor: Successful party in a small claims lawsuit.

Judgement Debtor: Unsuccessful party in a small claims lawsuit.

Venue: The place a claim arose; the place where the subject property is located; the place where the defendant resides or does substantial business. It is your responsibility to review the facts of your case and to decide where to file your action.

SMALL CLAIMS PROCEDURE IN BRIEF

A small claims action may be filed if the claim does not exceed \$5,000. However, all eviction cases, regardless of damages claimed, are filed in small claims court. You are responsible for presenting your own case. It is not necessary to be an attorney.

Forms Small Claims summons and complaint forms are purchased from the Clerk of Circuit Court cashiers in Room G-9 of the Courthouse. (See fee schedule.) Samples are available to help you fill out both forms. A sign in Room G-9 gives you information on potential court dates. An Answer and Counterclaim form can be obtained in G-9.

SELECTED FEE SCHEDULE (Effective July 27, 2005)

| Action | Fee |
|-------------------|------------|
| Copies (per page) | \$ 1.25 |
| Certification | 5.00 |
| Docketing | 5.00 |
| Satisfaction | 5.00 |

Small Claims:

| | |
|-----------------------------------------|--------|
| Garnishment | 87.50 |
| Commence Action | 89.50 |
| Crossclaim or Counterclaim over \$5,000 | 119.50 |
| 3 rd Party Complaint | 111.50 |

Large Claims:

| | |
|---------------------------------|--------|
| Garnishment | 205.50 |
| Commence Action: Amount Claimed | |
| Greater than \$5,000 | 259.50 |
| No Dollar Amount | 158.50 |
| 3 rd Party Complaint | 229.50 |
| Name Change | 158.50 |

Setting A Hearing Date You may choose your own court date with certain restrictions. Your first court date cannot be more than 30 days from the date that you filed the summons. For eviction actions, the defendant must be served at least five days prior to the first court date. For all other small claims cases, the defendant must be served at least eight days prior to the first court date. Make sure that you allow adequate time to accomplish timely service when choosing your court date. Remember that Saturdays, Sundays, and holidays are not included in computing the number of days required for proper service.

All small claims cases and eviction actions are first heard in Room 400, Courthouse. Small claims actions are scheduled at 9:00 a.m. Eviction actions are scheduled for 2:00 p.m.

Filing the Summons and Complaint Both the summons and the complaint must be filed to begin a lawsuit. The originals of the summons and complaint

must be filed with the Intake Section in Room 104 Courthouse before a copy may be served on the defendant. A case number will be assigned at this time. The next step is to arrange for service on the defendant.

Service of Summons Summonses and complaints may be served by the sheriff, a private process server, or any adult resident of the state who is not a party to the lawsuit. Service by mail is not authorized in Milwaukee County. If you choose the sheriff, the papers should be taken to Room 102, Safety Building, 821 West State Street. The sheriff's hours are Monday through Friday, from 8:00 a.m. to 4:00 p.m. The fee for service by the sheriff is set by law.

The Milwaukee County Sheriff does not serve papers outside of Milwaukee County. If service is to be made outside of the county, contact the sheriff for that county or a private process server to make service arrangements.

A copy of the summons and complaint should be personally served on the defendant or on a competent member of the defendant's household. If, with reasonable diligence, the defendant cannot be personally served, the plaintiff may appear on the court date and ask for an adjournment to allow for service by publication. Publication is accomplished by placing a notice in the legal section of a local newspaper for one week and mailing a copy of the summons and complaint to the defendant's last known address. Publication forms are available in the small claims court or from the cashiers in Room G-9.

Hearings All Small Claims Cases are heard in Room 400 of the Courthouse. The plaintiff must appear on the court date or the case will be dismissed. When the case is called, proof of service must be filed. This should be a sworn statement in writing signed by the process server. If the defendant does not appear, a default judgment will be granted. A defendant who is a resident of Milwaukee must appear in person on the court date to answer the complaint. Non-county residents may submit a written answer before the court date instead of appearing. Any defendant may file a counterclaim against the plaintiff or a cross complaint against a co-defendant. There is no fee if the claim is for less than \$5000, but a fee is charged for claims over \$5000 (see fee schedule). The parties should consider a settlement. Mediators are available to help with settlement discussions. If no settlement occurs, a hearing will be held immediately or scheduled for another date. A commissioner or judge will weigh the evidence and render a decision. If either party objects to the decision, they may file a Demand for Trial or Jury Trial. Instructions are provided in Room 400.

Judgement Once the judgment is granted, it will be entered on the court record by the clerk of circuit court staff and a "Notice of Entry of Judgment" will be mailed to each party at their last known address. This notice will state the amount of judgment, including statutory costs.

Costs State law directs the Clerk of Circuit Court to compute costs and insert them in the judgment in favor of the successful party as follows: filing fee, service fees, statutory attorney fees, witness fees, jury fee, and any other costs which may be allowed by the court.

Disclosure of Assets State law provides that if a person obtains a judgment for money, he or she is entitled to receive information regarding the financial status of the unsuccessful party within 15 days after entry of judgment. A form called "Order for Financial Disclosure and Financial Disclosure of Assets" is available in the small claims courtroom (Room 400 Courthouse), and should be requested from the court clerk when the judgment is granted. This should be mailed to the judgment debtor. Failure of the judgment debtor to provide this information in writing to the judgment creditor is punishable by court-imposed sanctions. The judgment creditor may compel the judgment debtor to appear in court and disclose this information by filing a "Petition and Order for Hearing." This form is also available in Room 400 Courthouse. If the judgment debtor fails to appear at this hearing, the court may issue a Body Attachment for arrest.

Collection A court judgment in your favor does not automatically result in payment of the money. If the debtor does not pay voluntarily, you must initiate collection of a judgment. Further court procedures are necessary. The primary methods available to small claims litigants for enforcing the payment of judgments are: A) Garnishment and B) Writs of Execution.

A) Garnishment is a method of collection that allows the judgment creditor to obtain monies owed by others to the judgment debtor, usually by attaching the judgment debtor's earnings or bank accounts. (See §814 Wis. Stats.)

B) A judgment creditor may ask the court for a Writ of Execution directing the sheriff to seize specific, non-exempt personal or real property belonging to the judgment debtor for the purpose of satisfying a judgment. You may want to obtain professional legal advice to decide if a Writ of Execution is appropriate for your case. (See §815 Wis. Stats.)

Docketing the Judgement Once a judgment has been obtained, the judgment creditor may "docket" it by taking the case file to the cashier in Room G-9 Courthouse and paying a fee. When a judgment is docketed, it becomes a lien on any real estate owned by the judgment debtor in Milwaukee County for 10 years. However, it is not required that a judgment be docketed to attempt collection from the judgment debtor.

Reopening Judgement The small claims court may reopen a default judgment if the motion to reopen is filed within one year after the entry of judgment and a good reason exists. To reopen a judgment, a "Notice of Motion and Motion to Reopen" is prepared and submitted to the court commissioner in Room 400 Courthouse. This form is available in Room 400 Courthouse. The commissioner

reviews the request. A date and time for the hearing is obtained from the court clerk for the assigned court. A copy of the notice of motion must be served on the opposing party at least five days before the motion date. Do not count Saturdays, Sundays and holidays. The judge will determine whether the judgment will be set aside and a hearing held on the merits of the case.

NAME CHANGE PROCEDURE

Name change procedure is governed by Wisconsin Statute 786.36. Wisconsin Statute 69.11(3)(b) also allows you to change your child's name without a court order, up to 365 days after the birth of your child. To do this, contact: STATE REGISTRAR FOR VITAL STATISTICS - P.O. Box 309, Madison, WI 53701-0309 or phone 608-266-1371.

Eligibility You must be a resident of Wisconsin. If the person whose name is to be changed is a minor under 14 years of age, the petition may be made by: both parents if living, or the survivor of them; the legal guardian(s); or the mother, if the minor is a nonmarital child who is not adopted or whose parents do not intermarry under state law 767.60, except that the father must also make the petition unless his rights have been legally terminated. Petitions must be filed in the county where you live.

Note: There are restrictions for persons engaged in professions for which state law requires a license.

How to file a Name Change Petition

Required forms, which are available at Wisconsin Legal Blank, 749 N. 37th St., Milwaukee, WI 53216 (phone 344-5155), are:

- Petition for Change of Name
- Notice of Hearing
- Order for Hearing
- Order for Change of Name

All forms must be typed or printed in black ink. You must sign the "Petition for Change of Name" in front of a Notary Public. Notaries are listed in the Milwaukee Yellow Pages. Make two (2) copies of the signed and notarized "Petition for Change of Name."

File all forms (including the two (2) copies of the petition) with the cashier in the Clerk of Circuit Court Office, Room G-9, of the Courthouse. Business hours are Monday through Friday from 8:00 a.m. to 5:00 p.m. A filing fee (click to see fee schedule) is required.

The cashier will assign a case number and judge to the case and will keep the original "Petition for Change of Name" and "Order for Change of Name" for the case file. You will keep one copy of the "Petition for Change of Name" for your

records. Take the remaining forms to the deputy court clerk in the assigned judge's courtroom.

The deputy court clerk will assign a date and time for the hearing and obtain the judge's signature on the "Order for Hearing." The clerk will keep a copy of the "Petition for Change of Name" and "Order for Hearing" and return the remaining copies to you.

Publication State law (Sec. 786.37 Stats.) requires publication of the "Notice of Hearing" before the hearing date. A newspaper that publishes legal notices is THE DAILY REPORTER, P.O. Box 92933, Milwaukee, WI 53202-0933 (phone 276-0273). The Daily Reporter provides a pick-up box in Room 104, across from the cashier. You may place your "Notice of Hearing" in the pick-up box. After publication is completed and paid for, the newspaper will mail a "Proof of Publication" affidavit to you.

Hearing Arrive on time for your hearing at the assigned courtroom and inform the deputy clerk of your presence. Come forward when your case is called and give the "Proof of Publication" affidavit to the clerk. You will be placed under oath and asked for the information on the petition (name, desired name, etc.). If your petition is granted, the judge will sign the "Order for Name Change." The clerk will then give the case file to you with directions.

Filing the Court's "Order for Name Change" Take the case file to the window in Room 104, and purchase two (2) certified copies of the "Order for Name Change." Take one certified copy to the Register of Deeds, Room 103 of the Courthouse for filing. This is required by statute. The filing fee is \$10 for the first page or side and \$2 for each additional page or side. (The second certified copy is for your records.)

For persons born or married in Wisconsin, the clerk at the window in Room 104 will forward the completed Vital Statistics Form to the State Registrar to effect the change on the applicant's birth certificate. The state requires a fee of \$22.

The initial cost for a name change only includes the filing fee. There are additional costs for forms, publication, additional certified copies of the "Order for Name Change" and additional copies of the new birth certificate.

HOW TO FILE A PETITION FOR BIRTH CERTIFICATE CORRECTION

Correction of Birth Certificate procedure is governed by state law 69.11 and 69.12. This process is used to amend an item that is incorrect or omitted on a birth certificate. In some instances the correction may be done administratively by contacting the State Registrar. Other situations require a court order. Consult the state laws or your legal advisor to determine which method is appropriate. If an order of the court is not required, contact the State Registrar for Vital Statistics at P.O. Box 309, Madison, WI 53701-0309 (phone 608-266-1371).

Forms If a court order is required, obtain the form “Court Order to Amend a Wisconsin Birth Certificate” from the Clerk of Circuit Court office, Room 104 of the Courthouse. This form must be typed or printed in **black ink**.

Procedure After you prepare the form, you should attach any necessary supporting documentation, such as a certified copy of the original birth certificate, baptismal records or hospital records. You then present your forms to the weekly duty judge for review. The cashiers in Room 104 can tell you which judge is on duty for the week.

If your request is approved, the judge will sign the “Court Order to Amend a Wisconsin Birth Certificate.” The deputy court clerk will place the court seal on the order and give it to you for filing.

Filing the Order It is your responsibility to send the original document to the State Registrar at the address noted above with a check or money order for \$22. You may wish to make a copy for your records first.